

Provisional Patent Applications (In a Nutshell)

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Some inventors like to file a provisional patent application as soon as possible in order to establish an early filing date and in order to be able to claim “patent pending” status for their invention. A provisional application gives the inventor a few months to determine if the market for his product exists before he spends more on a regular patent application and it gives the inventor and his patent agent time to fully establish how to claim all the proper aspects of his invention. Other inventors prefer to skip filing a provisional application and will file a regular application as soon as possible.

A provisional patent application is a “placeholder” for a regular patent application which may be filed later. A provisional application is good for 12 months after which it expires. If a regular application is filed before the provisional application expires then the regular application can claim the filing date of the provisional application. Thus, the provisional application offers a bit of a head start that lets the inventor claim “patent pending” status. A provisional application also helps the inventor retain the ability to file foreign patent applications even if he publicly shows his invention before he files the regular application. However, the provisional application does not result in a patent being granted. Only a regular application can result in a patent.

The US Patent and Trademark Office charges a lower filing fee for a provisional application than for a regular one. The provisional application does not have as many requirements, but it is still important to make sure the inventor is adequately described. Thus, most patent agent charge less for a provisional application than for a regular application, but the fee reflects the fact that a significant amount of work still must be done in drafting a good provisional application. Huntsville Patents typically charges a reduced fee for drafting a regular application if we drafted the provisional because we then have less work to do in understanding the invention and deciding how to describe it.

The cost for a provisional application, like the cost for a regular application, varies according to the complexity of the invention. Typically, Huntsville Patents will charge \$1500 to \$2500 for drafting a provisional application (roughly half the cost of drafting a regular application). The patent office charges a small provisional filing fee (\$100 for individuals or small companies).

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